

## Minutes of Meeting

### VIRGINIA REAL ESTATE BOARD INFORMAL FACT-FINDING CONFERENCES SEPTEMBER 4, 2003 (1:00 PM)

The Virginia Real Estate Board convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Sharon Parker Johnson, Board Member, Presided.

Douglas W. Schroder appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD and the Summaries or Consent Orders are attached unless no decision was made.

Lic=Licensing Application

A=Applicant

#### Participants

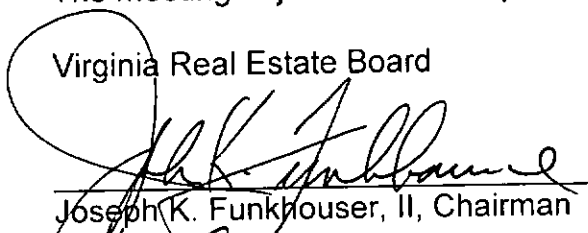
1. Shelby Gardner  
File Number 2003-03151 (Lic)
2. Yu Fan  
File Number 2003-03153 (Lic)

Gardner – A

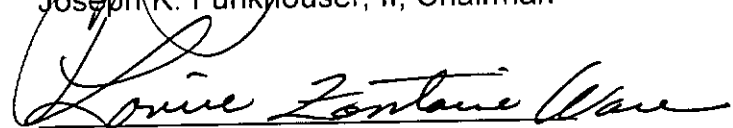
Yu Fan – A

The meeting adjourned at 2:30 p.m.

Virginia Real Estate Board



Joseph K. Funkhouser, II, Chairman



Louise Fontaine Ware, Secretary

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Custodian of Records

## **Minutes of Meeting**

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Virginia Real Estate Board

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S. Ronald Owens, Chairman

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Louise Fontaine Ware, Secretary

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**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
REAL ESTATE BOARD**

**IN RE: SHELBY JEAN GARDNER  
APPLICATION**

**FILE NUMBER: 2003- 03151**

**Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on September 4, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Shelby Jean Gardner on June 23, 2003. The following individuals participated at the conference: Shelby Jean Gardner, Applicant; Douglas Schroder, Staff Member; and Sharon Parker Johnson, presiding Board Member.

**Summation of Facts**

1. Shelby Jean Gardner (Gardner) applied for a real estate salesperson's license by examination on or about April 29, 2003, and disclosed criminal conviction(s).
2. On or about May 20, 2003, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.

**Prior Criminal Convictions**

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

Gardner was convicted of assault and battery, a misdemeanor.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public.

Gardner's conviction occurred approximately 20 years ago and she has had no further criminal convictions since that time.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

It does not appear that granting Gardner a license will encourage any criminal activity.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

The misdemeanor conviction should not affect Gardner's ability to perform the duties of a licensee.

5. The extent and nature of the person's past criminal activity;

Gardner was convicted of assault and battery.

6. The age of the person at the time of the commission of the crime;

Gardner was approximately 36 years of age at the time of the crime.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

Gardner was arrested for the offense on or about March 14, 1983.

8. The conduct and work activity of the person prior to and following the criminal activity; and

During the IFF, Gardner stated she was in the nursing field for several years prior to her conviction and she has worked in accounting for the last few years.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

Gardner was not incarcerated.

### **Conclusion and Recommendation**

Based upon the record and in consideration of the criteria outlined in § 54.1-204.B, I recommend Gardner's application be approved.

By: \_\_\_\_\_

Sharon Parker Johnson  
Presiding IFF Board Member  
Real Estate Board

Date: September 4, 2003

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
REAL ESTATE BOARD**

**RE: YU FAN  
APPLICATION**

**FILE NUMBER: 2003-03153**

#### **Summary of the Informal Fact-Finding Conference**

An Informal Fact-Finding Conference (IFF) was convened on September 4, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Yu Fan on June 23, 2003. The following individuals participated at the conference: Yu Fan, Applicant; Douglas W. Schroder, Staff Member; and Sharon Parker Johnson, presiding Board Member.

#### **Summation of Facts**

1. Yu Fan (Fan) applied for a principal broker's license by reciprocity on January 16, 2003. The Certification of Licensure from Maryland disclosed a previous disciplinary action against Fan.

2. On August 16, 2000, the Maryland Real Estate Commission found Fan, a real estate salesperson, in violation of Section 17-322 (b) (4) of the Business Occupations and Professions Article. Fan agreed to pay a monetary penalty of \$1,000.00 and to take a three credit hour real estate ethics course.

3. Fan has been licensed as a real estate broker, in the state of Maryland, since March 11, 2002.

### **Conclusion and Recommendation**

Based upon the record and information presented at the conference, I recommend Fan's application be approved, with the stipulation that Fan enter into an Agreement for Licensure with the Board, wherein Fan will report any investigations or inquiries the Maryland Real Estate Commission may initiate regarding Fan's actions as a Maryland real estate licensee, to the Virginia Board. This statement will be in addition to all of the standard reporting requirements of an Agreement for Licensure. Fan will report to the Board, on a quarterly basis, for a period of two years.

By: \_\_\_\_\_

Sharon Parker Johnson  
Presiding IFF Board Member  
Real Estate Board

Date: September 4, 2003

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

1. Name: Sharon Johnson
2. Title: Member
3. Agency: Real Estate Board
4. Transaction: Informal Fact-Finding Conferences on September 4, 2003
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

\_\_\_\_\_

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Sharon A. Johnson  
Signature

9/4/03  
Date